PUBLIC PROSECUTOR

v.

CHIA CHEE YEEN

HIGH COURT, SINGAPORE
P COOMARASWAMY J
CHAO HICK TIN JC
[CRIMINAL CASE NO. 27/88]
28 MAY 1990

CRIMINAL PROCEDURE: *Murder - Whether recording of statement from accused defective - Whether accused's statement inadmissible - Penal Code (Chapter 2218) s. 302.*

EVIDENCE: *Burden of proving diminished responsibility - Whether other exceptions under s. 300 of the Penal Code apply.*

The accused was charged with the murder of one Daniel De Rozario, a sergeant major attached to the Singapore Armed Forces Provost Unit (SAFPU). The prosecution's evidence was that the accused shot the deceased, his immediate superior officer, with an M-16 rifle. Immediately after the shooting witnesses saw the accused running away from the scene of the shooting. Witnesses saw the accused carrying the rifle, with smoke coming out of the weapon. Several hours later, a statement was recorded from the accused, and despite submission by the defence Counsel that the statement was inadmissible, the Court was satisfied that it was given voluntarily. At the end of the prosecution's case, the Court held that there was a *prima facie* case and called for the defence. The accused elected to give evidence on oath.

The accused did not deny that he shot the deceased. He said that he had been wronged and victimised by the deceased and that consequently he was angry. He had gone to see the deceased to work out a solution but the deceased had humiliated him and walked out on him. The accused raised the defence of diminished responsibility. A medical report testified that at the time of the shooting, the accused was suffering from psychotic depression with personality disorder.

Held:

[1] The burden of proving diminished responsibility, which is on a balance of probability, rests on the accused; this is a question of fact to be decided in the light of evidence before the Court, including medical opinion. On the evidence adduced, the accused had failed to prove it.

[2] The accused also failed to prove that any of the other exceptions to s. 300 of the Penal Code applies.

[Accused found guilty of murder.]

Legislation referred to:
Criminal Procedure Code [Sing], s. 122(6)
Penal Code, ss. 300, 302

Other sources referred to:
Comprehensive Textbook of Psychiatry, by Kaplan and Sadock, (4th Edn.)
Other Psychiatric Disorders, by Prof. Lehmann

For the public prosecutor - Ang Sin Teck
For the accused - Peter Yap

JUDGMENT

P Coomaraswamy J, Chao Hick Tin JC:

The accused, Chia Chee Yeen is charged before us on the following charge:

> You, Chia Chee Yeen, M19 years NRIC No. 1798906/F
>
> are charged, that you, on or about 17 July 1987, at about 10.35 a.m. at Provost Unit, Mowbray Camp, Ulu Pandan Road, Singapore, committed murder by causing the death of one Daniel De Rozario, and you have thereby committed an offence punishable under s. 302 of the Penal Code (Chapter 224).

The accused was at the relevant time a national serviceman holding the rank of Lance Corporal (LCP) and performing the duty of an armskoteman at the armoury of the HQ Company, Singapore Armed Forces Provost Unit (SAFPU). The deceased, Daniel De Rozario was, at the time of his death, a Staff Sergeant holding the post of a Company Sergeant Major (CSM) at SAFPU. The section in SAFPU to which he belonged was known departmentally as "S4".

Prosecution's Case

The evidence led by the prosecution shows that on 12 July 1987, the accused and two others, LCP Ang Cheng Kam and LCP Mok Weng Yeong, were required to perform an assignment as a punishment for offences which each of them had committed. Their assignment was to clean an area around the Ammo Dump (ammunition store). They carried out this duty between the hours of 7.55 a.m. to 2 p.m.

On 13 July 1987, the CSM, Daniel de Rozario, inspected the area cleaned by the three men. He found that it was not satisfactorily done and decided to make the three clean the area again in the next few days. The accused and LCP Ang were given orders so to do. They returned to the Ammo Dump and divided the area into three sections so that each punished person would clean a respective part. Both LCP Ang and the accused started cleaning the area but the accused seemed to be unhappy as LCP Mok appeared to have escaped having to clean the area again as he was not around.

On 14 July 1987, following a phone call made by the accused to LCP Mok, the latter came to LCP Ang's office and he was told of the repeat cleaning job. However, LCP Mok said that as he was engaged in other duties, he would not be able to join them in undertaking the same. LCP Ang returned to the area and continued with his work. The accused, however, was not keen in carrying on with the cleaning and told LCP Ang that he preferred guard duties rather than cleaning the area. He also told LCP Ang to stop work and accept whatever punishment the CSM might mete out. LCP Ang did not listen to the accused and continued with his work and completed his portion of the area on the afternoon of 15 July 1987.

On 16 July 1987, the CSM checked the area around the Ammo Dump and asked LCP Ang why was it that only certain parts were cleaned. LCP Ang told the CSM that LCP Mok was not around to do his share and that the accused was not interested in cleaning. LCP Ang also told the CSM that the accused had asked him not to do the cleaning. The CSM instructed LCP Ang to see him the next morning.

On 17 July 1987 at about 9a.m., LCP Ang went to the CSM's office as instructed. The accused was already there with the CSM. The CSM scolded the accused for not obeying orders. However, the CSM told LCP Ang that he could leave the office as he was satisfied with his work. The CSM awarded two sets of six-weekend punishment against the accused, one for not carrying out instructions to do the cleaning and the other for instigating others to disobey orders.

At about 10 a.m., the accused returned to the armoury and the armourer, LCP Chan Wai Seng (PW5) asked him what happened and he replied nothing. The accused's face showed no expression. He walked about in the armoury. Fifteen minutes later, the accused told PW5 that he was going to the Ammo Dump to do a stock-check. He took the keys from the drawer and left. About 10 minutes later the accused returned and placed the keys in the drawer. Not long after, the accused told PW5 that he was leaving for his CTSS exercise. The accused was seen leaving with an M-16 rifle slung over his right shoulder. It had no bayonet attached. He was also wearing his Skeleton Battle Order (SBO).

The accused came to see the CSM at his office. They had a conversation and at a certain point the CSM was heard to have told the accused "I don't want to talk to you any more." The CSM came out of his room and asked Zainodin Bin Ibrahim (PW8) about his pay slip. The CSM then went to a cupboard near the door of the general office. Then the accused was heard to call out the name of the CSM. The muzzle of the rifle, which was slung over his right shoulder, was pointing downwards. He was mumbling something. Suddenly there was a loud gun-shot sound followed by the accused running quickly out of the general office.

The CSM's body was found lying supine on the floor with his head pointing towards the direction of the door. Blood splashed all over the place. The top part of his skull was blown off and his brain was dislodged and was seen on the floor.

K. Baskaran (PW14) and Muthiah Gunalan (PW15), whose office was next door, heard a loud explosion and they ran out to investigate. They saw the accused coming out of the office of S4 and, according to PW14, the accused jumped out of the door-way, walked a few steps and then started to run along the corridor by the side of the cook-house cum canteen. PW15 said that when the accused came out of the door-way, he was holding an M-16 rifle with both his hands in a high port position. He saw smoke from the rifle. PW14 and PW15 chased the accused.

PW14 gave up the chase after a short distance because he had a pain in his back. PW15 was joined by Cpl Kok Sik Kiang (PW16). Half way down the road, the accused turned around and pointed the rifle he was holding in the direction of his pursuers. As a result, PW15 and PW16 took cover and squatted down. The accused continued to run.

Near the car park of the Special Investigation Branch (SIB) which is just about 10 to 20 metres from the main gate, the accused stopped running and pointed the rifle at himself. Two to three shots rang out. The accused collapsed on to the ground. The accused was groaning and muttering words in Mandarin to the effect that "I cannot take it I cannot take it. I am sorry for my parents I want to die." The accused's uniform on the right side was torn. Subsequently, a group of officers arrived. They unbuttoned his shirt and they noticed that he had abrasions below his left nipple and they carried the accused to the office of the officer-in-charge, SIB.

A short while later a medical officer, Dr. Daniel Sim (PW23) arrived at the SIB office. On examining the accused, he found that he had superficial abrasions over the left chest. There were no other injuries. He did not think there was any need to prescribe any treatment. The accused was conscious when he was examined by Dr. Sim though he did not respond to questions or instructions given. Neither did Dr. Sim detect any traces of alcohol or glue. However, the accused did keep on mumbling to himself repeatedly in Mandarin, "I cannot take it. I cannot take it."

The following ammunition was recovered from the accused's shirt and trouser pockets, that is, 20-rounds type magazine with 9 live rounds of 5.56 mm bullets inside; 30 live rounds of 5.56 mm bullets and 40 live rounds of 0.38 inch bullets. At about 3p.m. the same day, the investigating officer from the Criminal Investigation Department (CID) Insp. Ng Chee Kok, directed that the accused be placed under arrest and he was brought back to the CID. A statement was recorded from the accused from 5.25p.m. to 8.15p.m. Both the Inspector and the Interpreter who were present at the recording of the statement, testified that the accused gave the statement voluntarily.

The accused did not challenge the voluntariness of the statement. However, his Counsel raised the point that the notice of warning given by the Investigating Officer immediately prior to the commencement of the recording of the statement was defective. Under s. 122(6) of the Criminal Procedure Code, before a statement is taken, it is required that the accused should be served with a notice in writing and which shall be explained to him to the following effect:

> You have been charged with/informed that you may be prosecuted for:
>
> ...
>
> ...
>
> Do you wish to say anything in answer to the charge? If there is any fact on which you intend to rely in your defence in Court, you are advised to mention it now. If you hold it back till you go to Court, your evidence may be less likely to be believed and this may have a bad effect on your case in general. If you wish to mention any fact now, and you would like it written down, this will be done.

However the actual wording used by the Inspector was "you have been charged with that you may be prosecuted for". Counsel for the accused made the point that for a statement to be admissible under that provision the person must have been charged with the offence or has been officially informed that he may be prosecuted for it. He submitted that the wording used by the Investigating Officer is obscure as it sought to combine the two alternative situations into one. He said that this is a defect which renders the whole statement inadmissible. Having considered the matter and for the reasons which we gave after hearing both Counsel, we rejected the defence submission that the statement was inadmissible. We were satisfied that the statement given by the accused was voluntarily made without any inducement, threat or promise. We were satisfied that the accused was not misled by slight deviation in the wording of the notice read to him. We accordingly admitted in evidence the statement of the accused.

The evidence of the prosecution witnesses shows that the accused was, at worst, an "ordinary national serviceman", and at best, a "good national serviceman". His Commanding Officer, Captain Lim (PW13), said that he had not given any major disciplinary problems. All the witnesses from the Armed Forces knew him only in the course of work and their impression of him is that he was generally a friendly person. Several said that he carried out the duties of an armskoteman well. Some said that he was shy and reserved. He admired or adored actors and actresses and his primary hobby seems to be to take photographs with his idols, that is, actors and actresses, so much so that he had a number of albums where he collected these photographs and had these albums passed round his office for his colleagues to look at. None of them said that he was an aggressive person. They were all surprised at what the accused had done to the CSM.

Section 122(6) Statement

In his s. 122(6) statement, the accused recounted the events which were broadly in line with what were said by the witnesses for the prosecution. He said he was very unhappy with the punishments that the CSM meted out to him on the morning of 17 July 1987. Though reluctant, he signed the Register of Informal Punishments. He left the office of the CSM in a most unhappy state. This was what the accused said in his statement:

> I left the office and kept thinking about the matter everywhere I went. I went to the canteen and took some food. The more I thought over the matter, the more I thought I was victimized. I was extremely unhappy over the punishments meted out to me. I was so infuriated. I decided that I should shoot him to death and kill myself later.

In his statement the accused further said that he then went to the armoury and to the ammunition dump where he took out his M-16 rifle and two revolvers together with 50 rounds of 5.56 bullets for the rifle and 40 rounds of the 0.38 bullets for the revolver. He was then dressed in the Skeleton Battle Order as he was due to go for a CTSS exercise that afternoon. He explained why he took the .38mm bullets and the revolvers as follows:

> I drew the .38 mm bullets and the two Smith & Wesson revolvers because I imagined myself to be the killer like one of those featured in the TV show entitled "The Bund". I tucked the revolvers in my waist covered by my shirt. I do not know why. The reason for (tucking) the two revolvers in my waist was that it was exactly the way in which one of the killers did in the TV show entitled "The Bund".

Counsel for the accused took great pains to elicit from the Investigating Officer, Ng Chee Kok (PW24) the meaning of the sentence "I do not know where I fired the shot, from his front or his back or some other directions" that appears in another part of the statement. Counsel suggested that this sentence is bad and that the word "from" should really be "at". PW24 insisted that he recorded what was said by the accused through the interpreter. He said if the word "at" were substituted for the word "from" then the meaning of the sentence would be different. The interpreter, Loh Kok Lin, (PW25) in his evidence said that what he did was a literal translation of what the accused told him. His understanding of this sentence is that it merely indicates the direction of the accused *viz a viz* the CSM. In other words, the accused was not sure whether at that point the CSM was facing him or whether the CSM's back was towards him or if some other part of the body of the CSM was facing him. We accept that that is the correct meaning of that sentence and the one the accused intended to convey.

At the close of the prosecution's case, Counsel for the accused did not make any submission of no case to answer. The Court being satisfied that a *prima facie* case was made out against the accused on the charge, called for the defence. The two courses were explained to the accused and he elected to give evidence on oath.

Defence Case

In his evidence, the accused did not deny that he shot the CSM. According to him, on 17 July 1987, he went to see the CSM at the latter's office. The CSM was angry with the accused for not carrying out properly the assignment (area cleaning) as a punishment. The CSM also spoke angrily to the accused in Hokkien "recently you have been very smart, asking other people not to obey my order". The CSM awarded against the accused two sets of six weekend confinements as punishment; the first was for not carrying out the cleaning and the second for instigating LCP Ang not to obey orders. As the accused was due to go for his CTSS exercise that afternoon, the CSM asked the accused to see him again before the latter went for his exercise.

Following this rebuke by the CSM, the accused felt that he had been wronged. He was angry. He felt himself to be the hero in the television serial "The Bund" starring Chow Yuen Fatt, a popular Hong Kong movie actor. He wanted to have a talk with the CSM to try to get a solution. But if no solution could be found, then he would open fire. He said he left the CSM's office for the armoury and the Ammo Dump (ammunition store) where he took an M-16 rifle, two revolvers and many rounds of bullets for the rifle and for the revolvers. He also took two magazines. He tucked the two revolvers in his waist. He wanted to take as much ammunition as possible as that was what Chow Yuen Fatt, the hero in "The Bund" did. The accused was dressed in the Skeleton Battle Order.

Shortly thereafter, the accused returned to see the CSM at the latter's office. The accused asked the CSM to change the weekend confinements to guard duties which was refused. There were some arguments between the two and the CSM said words in Hokkien to the following effect "You dared to do it. You have no penis. You are not a man." The accused was asked to sign an acknowledgement of the punishment awarded against him. He hesitated but signed it. (We would observe that the accused might be confused here. He was asked to sign the acknowledgement at the first meeting that morning.) The CSM did not want to talk any further with the accused and walked out of his own room into the general office. The accused felt wronged and humiliated. At that point, the accused loaded the bullet-filled magazine onto the rifle and corked it. The accused walked out into the general office and fired once in the direction where the CSM was standing.

The accused said he saw red in the background and thought he had seen a ghost. He jumped over the body of the CSM which was lying at the doorway. He walked a few steps and then, sensing that the ghost was chasing him, ran in the direction which he was familiar passing the cookhouse cum canteen. Running half-way down the road to the main gate of the camp, he took off his Skeleton Battle Order and threw it away. As he ran near to the main gate, he saw something obstructing him. At that point he thought of dying as a hero. He felt that the world meant nothing to him. So he tried to point the muzzle of the rifle at himself. He opened fire. He could not remember how many shots he fired. He felt he was bleeding and dying.

In his evidence the accused said that he hated the CSM the first time he saw him. He felt that the CSM was a villian. He could not explain why he felt that way towards the CSM. He said prior to this incident, the CSM had frequently scolded him saying that the latter was crazy and lazy. He also hated his mother because on one occasion when his parents were quarrelling he heard that his mother actually did not want to bring him into this world as she wanted to abort him when she was pregnant with him. Until the age of seven, he was cared for by child-minders.

The accused said that he studied up to Primary Six but did not complete that grade. His parents often quarrelled. He took various jobs but did not hold any for long. Though he failed the basic training and had to repeat the course, he was nevertheless promoted to be a Lance Corporal. A few weeks before the incident, he felt stress on account of thinking of certain aspects of his past: his mother not wanting him; his failure at school; being bullied because he was soft in nature; in working life he was also a failure. He said he "heard things" and could not control himself. But because he was not selfish, he did not trouble other people with his problems. He repeatedly said when he thought of his problems he wanted to die as a hero as the world meant nothing to him.

In line with the evidence of the prosecution witnesses, the accused said one of his hobbies was to have himself photographed with movie/TV actors and actresses. He also liked to watch movies and television serials. The accused said that he was very affected by what he saw in "The Bund" and to use his words "I was completely thrown in with the character in the scene."

When asked why on 14 July 1987 he asked LCP Ang not to do cleaning work the accused said that he felt dejected. He could not take it any more. But he contended that he did not ask LCP Ang to stop work or not to listen to the CSM; he was only expressing to LCP Ang what he himself felt.

The defence called the mother (DW2) of the accused to give evidence as to the childhood and the behaviour of the accused at home. First, we would observe that DW2 herself was given away to foster parents when she was a child. DW2 was pregnant with the accused when she was at a very young age - in her mid-teens. Thus she attempted an abortion of that pregnancy. According to her, her married life had been hard because her husband was a rather irresponsible person who did not support or care for the home. Thus there were many quarrels. As a result she felt depressed and attempted suicide twice. She felt that there was no meaning in life and wondered why she had been so unlucky and had to work all her life.

Notwithstanding the attempted abortion, DW2 said she loved the accused nonetheless, like any other mother would her child. She agreed that perhaps she did not demonstrate her affection for him outwardly. During the first seven years when the accused was cared for by child-minders, DW2 would bring the accused home once a week.

DW2 said the accused did not do very well in school; but neither was he very bad. Sometimes he was obedient and sometimes not. But he did not complete Primary 6. The decision to stop schooling was taken by the accused's father. The accused did not talk much at home and neither did he confide in DW2. She said the accused's attitude towards her was all right but not particularly affectionate; neither was there any outward hostility. He did not tell her much about school or of how he fared at the national service. In so far as DW2 was concerned she did not notice anything unusual in the behaviour of the accused, though she had observed that the accused did not sleep well. She thought this might be due to the fact that he had too many things on his mind.

A week before the incident she noticed that the accused appeared unhappy as he did not listen to music, and listening to music was one of his hobbies. His other hobby was seeing movies and his favourite star was Chow Yuen Fatt. The accused had during the past expressed to DW2 that he was a failure in life.

Diminished Responsibility

The defence does not dispute that the accused did, in fact, shoot the CSM with the rifle and caused his death. The only defence raised is that of diminished responsibility under exception 7 to s. 300 of the Penal Code. The medical evidence in support of this defence came primarily from DW3, Dr. R. Nagulendran, consultant psychiatrist, who examined the accused on four occasions at the Queenstown Remand Prison, that is, on 24, 26 and 30 January 1989 and on 2 February 1989. Dr. Nagulendran also interviewed the accused's parents to obtain background information on his personal history.

Based on his psychiatric examination and on all the facts made available to him by the accused and his mother, Dr. Nagulendran was of the opinion that at the time when the accused fired his rifle at the CSM he was suffering from psychotic depression with personality disorder.

In arriving at this conclusion he relied on the following facts and circumstances:

(i) His mother had suffered symptoms of mental depression so much so that she had attempted suicide twice.

(ii) Lack of consistent and stable maternal care during the first seven years of the accused's childhood as he was fostered out and tended to by multiple child-minders.

(iii) There was marital disharmony between his parents as they frequently quarrelled.

(iv) The accused had a poor scholastic achievement being unable to complete even Primary 6.

(v) Inability to satisfactorily discharge his military duties leading to frequent punishments.

(vi) Persistent low mood feeling, associated with insomnia, poor appetite, loss in weight, low self esteem, sense of worthlessness and suicidal ideation.

(vii) Severe punishment meted out by the CSM coupled with humiliating remarks as to his manliness.

(viii) Intense feeling of victimization, depression and anger followed by sudden decompensation and break with reality characterized by grandiose delusional thinking in which he believed he was the hero in "The Bund", (to which we have already referred) - going to battle armed with a rifle, revolvers and a large quantity of bullets.

(ix) Continuation of aspects of psychotic behaviour when he confronted the CSM and subsequently shot the CSM at very close range in full view of other military personnel.

(x) Determined attempt to commit suicide by repeated firing of three bullets at his chest.

Dr. Nagulendran said that on the day of the incident, the accused suffered psychotic depression, that is, major depressive episode, with delusion. In accordance with the authority to which he referred *Comprehensive Textbook of Psychiatry* (4th Edn.) by Kaplan and Sadock (material parts of which were tendered in evidence and marked "D4"), he said that the accused satisfied the essential diagnostic features of a major depressive episode which that authority has identified to be the following:

A. Persistent dysphoric mood: depressed: low: irritable: hopeless.

Loss of interest.

Loss of pleasure.

B. At least 4 of these symptoms for at least 2 weeks:

1. Poor appetite or weight loss or increased appetite or weight gain.

2. Insomnia or hypersomnia.

3. Psychomotor agitation or retardation.

4. Loss of interest in normal activities or decrease in sexual drive.

5. Loss of energy.

6. Feelings of worthlessness, inadequacy, or exercise (inappropriate) guilt.

7. Reduced concentration or indecisiveness.

8. Suicidal ideation.

Dr. Nagulendran opined that the accused satisfied not only four of the symptoms but five and he identified the five to be poor appetite and weight loss; insomnia; loss of interest in normal activities; feelings of worthlessness or inadequacy; suicidal ideation. He made specific reference to what he described as the depressive mood suffered by the accused for a period of at least two weeks prior to the date of the incident and the humiliating rebuke which the CSM give him that morning. These, Dr. Nagulendran said, brought about the psychotic depression in the accused which in turn caused him to suffer the delusion that he was the hero in the television serial, "The Bund". He was therefore going to have a talk with the CSM to "settle" matters and if no settlement could be achieved then he would shoot the CSM and then commit suicide.

In law, the burden of proving diminished responsibility, which is on a balance of probability, rests on the accused. This is a question of fact which must be decided in the light of all the evidence before the Court, including medical opinion. So the first point which we must determine is whether it has been shown to this Court on a balance of probability that the accused was suffering from a major depressive episode. As we have stated above, none of the witnesses for the prosecution said that there was any change in the accused's behaviour or the way he carried out his duties prior to the date of the incident.

From Exhibit P115 (the extract from nominal record) we see that there is no evidence of any weight loss on the part of the accused. In his work he showed no less interest as testified by his colleagues and officers. He had further not indicated any suicidal tendencies to either his parents or any of his colleagues though the accused explained that he did not wish to burden others with his own problems. To all intents and purposes the prosecution witnesses were all of one voice to say that immediately prior to 17 July 1987 the accused was performing his duty as an armskoteman satisfactorily. None of them have observed that anything was amiss or that he was not his usual self at any time. They also noted that he was by nature reserved.

That none of his colleagues or officers were close to him in the sense that they did not socialize with him outside official duties was always in the forefront of our minds. If the accused was that seriously depressed for two weeks before the incident, his colleagues like Chan Wei Seng (PW5), who worked in the armoury with him would have noticed the change. The accused's performance at work would have been affected. Chan had worked with the accused for a year. Other than some vague references by the accused's mother that the accused seems to have many things on his mind and that he could not sleep, there was no objective evidence tendered to show that he was not his normal self during the two weeks before the incident.

It is pertinent to note that on 12 July 1987 when the accused was carrying out the work of cleaning the area of the ammo dump as a punishment together with LCP Ang and LCP Mok, he even had the sense, which is quite normal, of telling LCP Ang that they should finish their work quickly. Even as late as 14 July 1987, when he was required to clean the Ammo Dump all over again, all he was complaining about was that it was unfair that LCP Mok was not required to do the cleaning together with them. There were no signs of any exceptional behaviour but only expression of unfairness that LCP Mok should get off just because he had another assignment to do.

The facts or circumstances upon which Dr. Nagulendran relied to show that the diagnostic of a major depressive episode were present were all obtained from the accused himself and his mother. But by their very nature such facts or circumstances must be carefully scrutinized and matched against the objective evidence, particularly the conduct of the accused shortly

before and after the incident, bearing in mind that it is all too easy for an accused person to say that he was depressed or had insomnia or had poor appetite. We say this fully conscious of the quantum with which an accused has to prove any matter where the law imposes a burden upon him.

Dr. Ang Ah Leng (PW28), a psychiatric consultant with the Woodbridge Hospital, examined the accused on 11, 18, 21, 25 and 31 August 1987 at the Changi Prison Hospital. During the first three occasions of his examination of the accused the latter was uncooperative and gave either "I don't know" answers or approximate or stupid answers evidencing what Dr. Ang called "Ganser Syndrome". Dr. Ang also interviewed the parents of the accused. The accused only opened up and talked to Dr. Ang on the fourth occasion and related to him what happened on 17 July 1987. In this interview the accused did not mention anything to Dr. Ang about the accused believing himself to be the hero in "The Bund" and going for a settlement talk with the CSM. We would observe that we do not place much significance in this omission as the accused did in his s.122(6) statement, recorded immediately after the incident, make specific mention of the hero in "The Bund".

However Dr. Ang who sat through the proceedings in this Court was nevertheless, having considered all the material before the Court, of the opinion that the accused was not suffering from any mental illness which would substantially impair his mental responsibility for his acts. He was of the opinion that the accused could not be suffering from any psychotic depression because a person who suffers from psychotic depression coupled with a delusion of the kind alleged would continue to harbour such a delusion even after the villain had been eliminated. The very nature of a delusion is that it is a false belief that arises without appropriate external stimulation and is maintained unshakeably in the face of reason and such a belief is not one ordinarily shared by other members of a patient's social, cultural, and educational grouping. Dr. Ang said that the delusion suffered by a psychotic patient cannot disappear just like that. The delusion will disappear as the psychotic depression subsides. A person who truly suffers from psychosis could not return to reality immediately after the happening of an event.

Assessment of the Court

Having considered the undisputed facts of the case, the conduct of the accused prior and subsequent to the incident and the medical evidence, we find that the accused was not suffering from psychotic depression on the day of the incident. There was hardly sufficient objective evidence to show that the required diagnostic criteria for major depressive episode have been satisfied. The information furnished by the accused to Dr. Nagulendran after a considerable lapse of time must necessarily be viewed with some caution. In so far as the mother was concerned, she admitted that she was not close to the son and he did not confide in her. From the ambivalent answers given by the mother in this Court, it seems to us clear that she really had very little contact or knowledge of her son. In any event, even the mother did not really observe any significant change in the accused's behaviour during the two weeks before the incident.

On the other hand there is evidence to show that the accused was discharging his duties as an armskoteman in the usual manner. While we agree that the accused, on being awarded the punishments by the CSM that morning, was very upset and angry, and here we would say that is only to be expected, there is nothing more than that. Even on the accused's own evidence, he disliked the CSM from the first time he laid eyes on the CSM, and that the

CSM often called him lazy and crazy, yet he had the audacity to challenge the authority of the CSM by instigating LCP Ang not to carry out the CSM's order. In our judgment, what happened on 17 July 1987 was a continuation of that defiant streak in the accused.

We turn next to consider whether the accused was suffering from brief reactive psychosis. This point arose during the cross-examination of Dr. Ang when he said that a person who suffers from delusion as a result of psychotic depression could not get out of that deluded state in a matter of 1½ hours. Treatment is required for a person who suffers from such a mental illness. It could go off spontaneously without treatment but that would require even more time. Counsel for the defence then tendered *Other Psychiatric Disorders* (Exhibit D9) which is an article written by Prof Lehmann, a Professor Emeritus at McGill University, to show that a certain type of psychosis could last only for a very short period.

In the opinion of Prof Lehmann:

> a group of brief psychotic disorders presents certain characteristic features that distinguish these disorders from other psychotic conditions. Most importantly, the symptoms of this type of psychotic breakdown are almost always preceded by stressful life events to which the patient reacts with strong dysphoric affect. In addition to a clear history of such precipitating events, the disorder is further characterized by its acute and florid symptoms, short duration and a good prognosis.

According to Prof Lehmann, the precipitating factor must be a major stress experience closely related in time to the emergence of symptoms. He says that unstable rather than stable personalities seems to be more susceptible to this kind of psychotic breakdown. Further, he also says that most such patients recover within a few days and that "acute reactive psychotic states may occasionally last only an hour or less, particularly if they are sleep induced, epileptic, or hysterical-dissociative in nature."

According to Prof Kok Lee Peng (PW31), Associate Professor of Psychiatric Medicine at the National University of Singapore, brief reactive psychosis can occur even to a normal person, but there must be an immediate stressful life event for that to come about.

Both Dr. Nagulendran and Dr. Ang are agreed in two respects: the event that morning was very stressful for the accused and the suicide attempt by the accused was genuine. Where they differ is as to the effect of that event on the accused. Dr. Nagulendran says that the event brought about this brief psychotic depression, and the shooting of the CSM and the suicide attempt were acts done while the accused was still suffering from the psychosis. On the other hand Dr. Ang is of the opinion that the event did not bring about any psychosis on the part of the accused. What happened was that, as a result of the event the accused became very angry and imagined himself to be the hero in "The Bund". He thus requested the CSM to alter the punishment imposed. When that was refused, he could not care less and fired at the CSM. He ran away from the scene of the crime and when he realized that he could not escape, he tried to shoot himself in a suicide attempt.

What strikes us is that if the accused did in fact suffer a brief reactive psychosis following the first meeting with the CSM that day, it is most extraordinary that the first thing he thought of on the occurrence of the brief receive psychosis was to go to the canteen to eat and after that on his return to the armoury, to loiter there in silence. If the brief reactive psychosis had come over the accused which made him believe that he was the hero in "The Bund" we would have expected him to act immediately. His emotions then must have been high. In our view, his conduct portrays the picture of a person who wanted to imagine himself a hero and who was trying, in that angry state, to figure things out in his mind. And having reflected

and figured out how he would act, he proceeded to get the ammunition, two revolvers and one M-16 rifle, got dressed in the Skeleton Battle Order and left the armoury telling Chan Wai Seng (PW5) that he was going for his CTSS exercise. His s. 122(6) statement supports this view.

We are conscious that in the opinion of both Dr. Ang and Professor Kok it does not follow that a person who suffers from a delusion will have his sensorium affected. The person will know his whereabouts, time and place and could also recognise friends, depending on the intensity of his emotion. Prof Kok opined that the fact that the accused informed PW5 that he was going to the CTSS exercise is consistent with the position that his sensorium was not clouded; but she also added that if the accused was in the grips of powerful emotion, it was unlikely that he would say that. This remark of the accused, viewed in the contexts of what he did earlier, that is, going to canteen and loitering in the armoury, clearly shows that he was very much his own self.

A great deal has been said about the way the accused over-armed himself. Why did he require 90 rounds of ammunition, two revolvers and one rifle? This Court has not been shown how the hero went about meeting the villains in "The Bund". No evidence was placed before the Court on that. Assuming that that was how the hero did in going to meet the villains, we think this aspect of the accused's conduct is consistent with both scenarios, that is, the accused truly believing himself to be the hero the accused imagining himself and consciously wanting to imitate the hero in "The Bund" in the circumstances in which the accused found himself.

We move next to the contention that unless the accused was truly under a delusion he would not shoot the CSM in the presence of so many other people in the office. Here again we think that this fact is neutral. It could be as much the act of an angry person who did not care about the consequences. This point and the previous point on overarming must be viewed in the overall context.

The next point is this. The accused said that he believed himself to be the hero. He was going to have a settlement talk with the CSM and if that failed he would shoot the villian (CSM) and then commit suicide. Yet, what happened was that after having shot the villain the accused did not embark on any self-wounding action that would lead to suicide; instead he ran away.

The accused explained that he ran away because he saw blood and thought that was a ghost. Would a hero in that position be afraid of blood and ghost? Such a hero would have expected blood to flow, as that would be the natural consequence of his act. Neither would a hero be afraid of a ghost or ghosts. Why did the accused run away and only stop to shoot at himself when he realized he was pursued and he discovered the barrier a short distance in front of him? This, in our view, shows that he was conscious all the time of what he was doing and when he discovered that he could run no further, he took what he then came to think was the only way out - to commit suicide.

It is pertinent to note that some of the first utterances of the accused after his attempted suicide were "I can't take it anymore", "I want to die", "sorry for my parents". We are unable to accept Dr. Nagulendran's opinion that that was the point at which the accused's psychotic depression subsided and the delusion of being a hero ceased. It seems to us that the accused's senses and rational behaviour never left him. Having considered all the evidence before us, we are not satisfied that a case has been made out that the accused was suffering from brief reactive psychosis for the period from slightly past 9 a.m. to approximately 10.40 a.m. on 17 July 1987 or any part thereof.

We would observe that while Prof Lehmann said that one could have brief reactive psychosis for even one hour, it seems his experience relates to those which are sleep induced, epileptic or hysterical-dissociative in nature. The three experts before us have not come across a case of brief reactive psychosis of such extremely short duration. Dr. Kok said from her experience the shortest period was three days. Even Dr. Nagulendran has not encountered a case of psychosis of such brief duration. We agree that one should not be obsessed with the question of the duration of the psychosis which must by its very nature vary from case to case. It is nevertheless a point to be borne in mind. Of course far more important are the acts and conduct of the person during the relevant period in question.

It seems to us quite clear that here you have an average national serviceman who had performed his duties satisfactorily, but who, like others, had occasionally run foul of the rules and regulations of the camp resulting in minor punishments being meted out to him. On no account can the accused be said to be a failure in the army as Dr. Nagulendran thought him to be. Notwithstanding the fact that he repeated the basic course, he was good enough to be promoted a Lance Corporal. Some, if not most, of his colleagues and officers considered his work as "good" or "efficient". His relationship with those colleagues and officers in the camp was also cordial. They have regarded him as friendly though reserved. Workwise they have no complaints. He had his main hobby that of being photographed with movie/TV actors and actresses. His other hobbies were going to the movies and listening to music.

However, we are forced to conclude there lies in him a streak of temper which will even cause him to defy authority if he thinks that what he is being asked to do is unfair. This streak manifested itself on 14 July 1987 when he told LCP Ang not to carry out the work and accept whatever punishment the CSM might mete out to them. In our view what happened on 17 July 1987 was a further manifestation of that streak. We find that he tried to imitate the actor Chow Yuen Fatt in "the Bund". We do not think that he at any time seriously believed that he was Chow Yuen Fatt, the hero. He knew what he was doing, that is, to copy the way Chow Yuen Fatt went about on a showdown with the villains.

Though the accused broke down on two occasions while being under cross-examination, one can see from his answers that he is not a person without considerable understanding. Though he did not even complete his primary 6 education he is certainly a person capable of deep thought. For example: (i) When he was asked was the DPP a bad man, he answered "using my present thinking, nobody is a bad man"; (ii) When he was asked if he accepts that his work was good and thus he was promoted to be a Lance Corporal, he said:

> What I think now is we mustn't claim credit for what we do. If we claim credit or show off about our work this is hypocrisy. Just like what I said just now, a monk in the temple, he chants the sutras. To you all he appears to be good. Behind him what do you know what he did behind. That's what I mean. I am inclined to say as a person, so long as my conscience is clear, let things take its natural course. This is what I mean.

The accused's answers in Court, even in respect of events prior to and subsequent to the period of the alleged psychosis, were very often "cannot remember" or "I don't know". At some stages answers of this type were almost mechanical that it was difficult to resist the inference, that he was, so to say, intellectually malingering.

Accordingly, we reject the defence of diminished responsibility. Neither do we find that any one of the other exceptions to s. 300 applies. We, therefore, convict the accused on the charge of murder.

Also found at [1990] 2 CLJ 492